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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/973,005

10/10/2001

Paul W. Paustian JR.

CERBERUS

4793

7590

05/02/2006

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EXAMINER

HOLZEN, STEPHEN A

ART UNIT

PAPER NUMBER

3644

DATE MAILED: 05/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/973,005

Applicant(s)

PAUSTIAN ET AL.

Examiner

Stephen A. Holzen

Art Unit

3644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5,7-41 and 43-47 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-5,7-38,40 and 43 is/are allowed.
- 6) ☒ Claim(s) 39, 41,44-47 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 2/22/2006 have been fully considered but they are not persuasive. The examiner does not believe that the disputed claims are allowable in view of Ridgeway. Ridgeway Jr. (4,180,867) discloses a multipurpose sheet material having multiple applications such as apparel, a tent as well as a bag for holding gear and personal effects. It should be appreciated that applicant's claim language only claims that the cargo be contained within a "smock". (The functional language "to reduce possibility of snags during descent" only limits the claim to the capability of performing the function. The teachings of the function in the prior art need not be present.)
2. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Ridgeway teaches that it is known to cover a person with a smock and one of ordinary skill in the art would recognized that a covering smock would decrease the chances that an object or appendage under the smock would snag during descent.

3. Applicant has argued that Ridgeway teaches away from using the smock with a slide, however the examiner can not find a teaching in the Ridgeway reference that teaches away from using the smock as a slide smock. Applicant's arguments in this regard are therefore moot.

4. Applicant has opined that it would have been "impossible" for one to envision the combination of Welsch and Forrester with the smock of Ridgeway, however provides no evidence to support such a conclusions. Arguments of counsel may be effective in establishing that an examiner has not properly met his or her burden or has otherwise erred in his or her position. In these situations, an examiner may have failed to set forth any basis for questioning the adequacy of the disclosure or may not have considered the whole specification, including the drawings and the written description. However, it must be emphasized that arguments of counsel alone cannot take the place of evidence in the record once an examiner has advanced a reasonable basis for questioning the disclosure. See *In re Budnick*, 537 F.2d at 538, 190 USPQ at 424; *In re Schulze*, 346 F.2d 600, 145 USPQ 716 (CCPA 1965); *In re Cole*, 326 F.2d 769, 140 USPQ 230 (CCPA 1964).

5. Claims 1-5, 7-41, 43-47 are pending

6. Claims 1-5, 7-38, 40 and 43 have been allowed

7. Claims 39, 41, and 44-47 have been rejected

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 39 and 41 are rejected under 35 USC 103(a) as being unpatentable over Welsch et al (3,358,950) in view of Forrester (5,620,058) and further in view of Ridgeway Jr. (4,180,867).

Welsch et al (Welsch) discloses a rapid deployment system comprising an aircraft, specifically comprising a helicopter and that the rapid deployment system is connected to the helicopter at a specific location (see Figures 1 and 4).

Forrester discloses that it is known to adapt his emergency evacuation system to be operable in special operational insertions where insertion is from an aircraft (see Col. 3, lines 59-63). Forrester teaches at least one inflatable landing tube coupled to the aircraft (3), the tube having an inner surface (inherent), and outer surface (inherent), a top end and bottom end (Figure 1, illustrates both the top end and bottom end of tube #3), an inflatable exit slide (#17), positioned at the open bottom (Col. 7, line 10), and air source (see Col. 6, line 53), that keeps the exit slide and landing tube at an optimum pressure (see Col. 7, lines 6-8), plural connectors positioned on the landing tube (#15), at least one entry port (see Col.

6, line 44), plural flexible retarders (#5, 7, 9 and 11), that extend inward from the inner surface of the landing tube for retarding.

It would have been obvious to employ the device of Forrester in combination with an aircraft for inserting troops, as taught by Welsch, for the purpose increasing the safety of personnel in a hostile situations.

Welsch in view of Forrester do not disclose a slide smock for covering either the cargo or the personnel to reduce the possibility of snags during descent. (Note: It should be understood that armed forces have a plurality of personal and government issued effects that allow them to survive in the wild. Such inherent gear would be weapons, bullets, protective shields, radios, etc. Inherently this gear/cargo is much easier to carry in a bag, than each element by hand.)

Ridgeway Jr. teaches that it is known to use a multipurpose smock (10, 36) of nylon or sheet plastic material as a duffle bag for holding gear and personal effects (see Figures 8 and 10, Col. 1 lines 18-27, lines 45). It would have been obvious for each armed personnel (of Forrester) to insert his personal effects into the multi-purpose smock of Ridgeway Jr. (as illustrated in Figure 10) and send this bag down the inflatable chute of Welsch and Forrester (at the same time or at different times with the armed forces) to provide the armed forces the flexibility to survive in hostile situations. The duffel bag of Ridgeway Jr. is inherently

capable of (1) covering the cargo (2) covering the personnel (3) reducing possibilities of snags during descent (inherently reduces the possibility of letting sharp edges or protrusions rip through the tube.

Re – Claim 41: The slide smocks of Ridgeway are of friction reducing material (nylon and plastic) and they are “removable” since they can be used for purposes other than holding cargo, personal effects; such as a rain jacket or tent. (See Figures 8 and 10 and Col. 1, lines 18-27, and 45)

10. Claims 44-47 is rejected under 35 U.S.C. 103(a) as being unpatentable over Welsch in view of Forrester and further in view of Leisman et al (4,681,186).

Welsch et al (Welsch) discloses a rapid deployment system comprising an aircraft, specifically comprising a helicopter and that the rapid deployment system is connected to the helicopter at a specific location (see Figures 1 and 4).

Forrester discloses that it is known to adapt his emergency evacuation system to be operable in special operational insertions where insertion is from an aircraft (see Col. 3, lines 59-63). Forrester teaches at least one inflatable landing tube coupled to the aircraft (3), the tube having an inner surface (inherent), and outer surface (inherent), a top end and bottom end (Figure 1, illustrates both the top end and bottom end of tube #3), an inflatable exit slide

(#17), positioned at the open bottom (Col. 7, line 10), and air source (see Col. 6, line 53), that keeps the exit slide and landing tube at an optimum pressure (see Col. 7, lines 6-8), plural connectors positioned on the landing tube (#15), at least one entry port (see Col. 6, line 44), plural flexible retarders (#5, 7, 9 and 11), that extend inward from the inner surface of the landing tube for retarding gravitational descent of cargo and personnel (see Col. 8, lines 59-61).

Forrester in view of Welsch do not disclose a shield around the tube made of Kevlar.

Leisman et al teaches that it is known to construct an escape chute having an inner and outer tube. The outer tube is a shield that surrounds the inner tube and protects the individuals during descent (#76). Leisman et al further teach that it is known to make the outer tube from aluminized spun Kevlar Twill.

It would have been obvious to one having ordinary skill in the art to surround the escape tube of Welsch in view of Forrester with aluminized spun Kevlar Twill to protect the troops when the unloading/extraction of troops occurs in a hostile environment.

Allowable Subject Matter

Claims 1-5, 7-38, 40 and 43 are allowed.

Conclusion

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

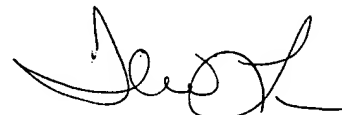
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen A. Holzen whose telephone number is 571-272-6903. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teri Luu can be reached on 571-272-7045. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sah



**TERI PHAM LUU
SUPERVISORY
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